



10/3/2008

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

|    |                           |   |                        |
|----|---------------------------|---|------------------------|
| 11 | LYNN FAWKES, JOHN FAWKES, | ) | Case No. C-08-02034 JW |
| 12 | Plaintiff,                | ) | JOINT CASE MANAGEMENT  |
| 13 | vs.                       | ) | STATEMENT AND PROPOSED |
| 14 | TARGET CORPORATION and    | ) | ORDER                  |
| 15 | DOES 1 to 40,             | ) |                        |
| 16 | Defendants.               | ) |                        |

The parties to the above-entitled action jointly submit this Case Management Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this case.

### DESCRIPTION OF THE CASE

1. **Jurisdiction and Service:** The basis of the court's jurisdiction over this case is diversity jurisdiction pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1332. The incident occurred in Sand City, California. The complaint is at issue and all parties have been served and appeared.
2. **Brief description of the events underlying the action:** On August 14, 2007, plaintiff Lynn Fawkes alleges to have sustained personal injuries and damages when she slipped and fell on liquid at defendant Target Corporation's Sand City store. Defendant denies liability and questions the reasonableness, necessity and causation of damages.

1    **3. Legal Issues:**

2       a) Whether the defendant had notice of a dangerous condition on its premises.

3       b) Plaintiff's comparative negligence.

4       c) Whether the incident was a cause of plaintiff's injuries and damages.

5       d) The reasonableness and necessity of plaintiff's treatment.

6    **4. Motions:** There are no motions pending.

7    **5. Amendment of Pleadings:** None anticipated.

8    **6. Evidence Preservation:** Not applicable.

9    **7. Disclosures:** Initial disclosures pursuant to F.R.C.P. 26(a)(1) will be done by  
10   October 17, 2008.

11   **8. Discovery:** The parties agree to the following discovery plan:

12       -       Written discovery: Responses to the first round of written discovery have  
13   already been served by the parties. The parties are meeting and conferring on several of  
14   the responses.

15       -       Subpoenaed employment and medical records: The records have been  
16   ordered and should arrive by October 31.

17       -       Deposition of plaintiff Lynn Fawkes is set for October 8, 2008, at 10:00 am.

18       -       Deposition of plaintiff's daughter and witness to the fall, Sara Filly, is set  
19   for October 14, 2008, at 11:00 am.

20       -       Depositions of several of defendant's employees and persons most  
21   knowledgeable have already been taken. One more employee, Dusty Duriss, will be  
22   deposed by October 31.

23       -       Defense medical examination: Defendant will most likely choose to have  
24   plaintiff examined after the mediation.

25   **9. Class Action:** This is not a class action lawsuit.

26   **10. Related Case:** There are no known related cases.

27   **11. Relief:** Monetary damages according to proof.

28   **12. Settlement and Alternative Dispute Resolution:** The parties have agreed to

1 mediate within 90 days.

2 13. **Consent to Magistrate:** The parties have agreed to proceed before the Magistrate  
3 Judge for all purposes.

4 14. **Other references:** The case is not suitable to reference to others at this time.

5 15. **Narrowing of Issues:** Not at this time.

6 16. **Expected Schedule:** Not at this time.

7 17. **Scheduling:**

8 17. **Scheduling:** The parties submit the proposed schedule:

9 Disclosure of expert witnesses 2/6/09

10 Disclosure of rebuttal experts 2/20/09

11 Last day to complete all discovery, including expert depositions 3/13/09

12 Last day to file motions to compel discovery 3/20/09

13 Last day to file serve dispositive motions 3/27/09

14 Last day to hear dispositive Motions 5/1/09

15 Last day to meet and confer regarding content of Joint Pre-Trial Conference

16 Statement 5/8/09

17 Last day to file Joint Pre-Trial Conference Statement, F.R.C.P. 26(a)(3),

18 motions in limine 5/15/09

19 Last day to file opposition to motions in limine 5/22/09

20 Pre-Trial Conference 5/29/08

21 Trial 6/8/09

22 18. **Trial:** All parties have requested a jury trial. The trial is expected to be 5 to 7 days.

23 19. Disclosure of Non-Party Interested Entities or Persons Certificate have been or will  
24 be filed pursuant LR 3-16.

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1 20. Other Matters: None known.  
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4 Dated: September 30, 2008

BOORNAZIAN, JENSEN & GARTHE

5  
6 By:   
7 Gail Trabish, Esq.  
8 Attorneys for Defendant  
9 Target Corporation

10 Dated: September \_\_, 2008

BALAMUTH HARRINGTON, LLP

11 By:   
12 Jim W. Yu, Esq.  
13 Attorneys for Plaintiff Lynn  
14 Fawkes

15 **CASE MANAGEMENT ORDER**

16 In light of the parties' representation that they consent to a Magistrate  
17 Judge for all purposes (see paragraph 13 in the above Joint Statement),  
18 the Clerk of Court shall reassign this case.

19 Dated: October 3, 2008

20   
21 United States Judge  
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**CERTIFICATE OF SERVICE**  
**(28 U.S.C. §1746)**

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

A copy of the below-named document was served via email in accordance with the ECF filing system in U.S. District Court - Northern to the below-named recipient(s):

**1. JOINT CASE MANAGEMENT STATEMENT AND PROPOSED ORDER.**

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**Attorneys for Plaintiff**

I declare under penalty of perjury that the foregoing is true and correct. Executed at Oakland, California on September 30, 2008.

  
ALEXINE BRAUN

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